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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,752	11/21/2003	Jeffrey Anthony Larsen		1458

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,752	LARSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Justin M. Larson	3727	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/20/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the photographs of Figures 9, 12, and 13 are not of sufficient quality so that all details in the photographs are reproducible in a printed patent. Furthermore, these photographs are the only showing of the storage compartments and because they are of poor quality, there is no clear showing of how the compartments are integrated onto the frame. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 900-910, 1200-1207, and 1300-1306. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: On page 3, line 9 should read "over *long* distances". On page 4, line 7 should read, "The backpack frame (101) comprises..."

Appropriate correction is required.

***Claim Objections***

3. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim 6 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Weatherall (US 6,315,177 B1).

Regarding claim 1, Weatherall discloses a backpack comprising an external frame with at least one adjustable shoulder strap, an adjustable waist belt, and a connector (14) associated with the external frame.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Weatherall which is capable of being used in the intended manner, i.e., supporting a bicycle frame. There is no structure in Weatherall that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 2, the backpack of Weatherall has a storage compartment (space or area between frame members 26a & 26b) associated with the outer side of the external frame. Note that no structure of the compartment has been set forth in the claims to read over this interpretation of a compartment. An object or cargo could certainly be wedged or stored in the area between frame members 26a & 26b.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolf (US 4,433,802 A).

Regarding claim 1, Woolf discloses a backpack comprising an external frame with at least one adjustable shoulder strap, an adjustable waist belt, and a connector (29) associated with the external frame.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Woolf which is capable of being used in the intended

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manner, i.e., supporting a bicycle frame. There is no structure in Woolf that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 2 and 3, the backpack of Woolf has first and second storage compartments (31 & 32) associated with the outer side of the external frame at the top and bottom of the frame, respectively.

Regarding claim 4, the first and second storage compartments of Woolf each have a connector (34) associated therewith for releasably connecting the respective compartments at upper and lower ends to the external frame, which when connected leave a gap between the external frame and the compartments.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Woolf which is capable of being used in the intended manner, i.e., storing a bike wheel in the gap between the storage compartments and the frame. There is no structure in Woolf that would prohibit such functional intended use (see MPEP 2111).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherall in view of Woolf, and further in view of Croft (US 5,816,457 A).

Regarding claims 7 and 8, Weatherall discloses a backpack comprising an external frame with at least one adjustable shoulder strap, an adjustable waist belt, and a connector (14) associated with the external frame, but fails to disclose a pair of storage compartments associated with the outer side of the external frame at its top and bottom and a hydration system.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Weatherall which is capable of being used in the intended manner, i.e., supporting a bicycle frame. There is no structure in Weatherall that would prohibit such functional intended use (see MPEP 2111).

Woolf discloses a backpack having an external frame and teaches that a pair of storage compartments may be attached to the vertical rails of the frame at its top and bottom for storing cargo. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach storage compartments to the external frame of Weatherall, as taught by Woolf, so that a user would be able to store additional items in the backpack.

Croft also discloses a backpack and teaches that a hydration system may be mounted to the backpack body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a hydration system to the backpack of Weatherall, as taught by Croft, so that a user had access to hydrating fluids while hiking or otherwise carrying the backpack.

Regarding claim 9, the first and second storage compartments of Woolf, which have been implemented onto the backpack of Weatherall, each have a connector (34) associated therewith for releasably connecting the respective compartments at upper and lower ends to the external frame, which when connected leave a gap between the external frame and the compartments.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Weatherall in view of Woolf which is capable of being used in the intended manner, i.e., storing a bike wheel in the gap between the storage compartments and the frame. There is no structure in Weatherall in view of Woolf that would prohibit such functional intended use (see MPEP 2111).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art includes backpacks with external frames and backpacks having storage compartments attached one on top of the other to one another.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone



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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
7/21/06

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER